IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. NO. 463 /2003

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

PETITIONERS : M/s. Khandelwal Dal Mill
Dhamdha Road, Chikhali, Distt. Durg
Registered Partnership firm
Through Partners

1. Kishan Khandelwal, aged 50 years
2. Siya Ram Khandelwal, aged 48 years

Both Sons of Shri Ramdhan Khandelwal, R/o.infront of Punjab National Bank, Station Road Durg (C.G.)

P.R. No. Defect
Presented by Shri S.K. Sudhakar Agrawal
dated 24.9.03

VERSUS

RESPONDENT Babulal Lunawat, aged about 78 years
S/o. Late Moti Lal Lunawat
Tax consultant, R/o. Station Road
Durg (C.G.)

1. **PARTICULARS OF THE PETITIONERS**

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.M.No. 400/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26.03.2004

Smt. Sudha Agrawal, counsel for the petitioner.

The petitioner has preferred this writ petition under Article 227 of the Constitution of India being aggrieved by the order-dated 05.12.2002 passed by the learned 6th Additional District Judge, Durg whereby the application of the petitioner herein for production of the documents was rejected.

Brief facts leading to filing of this writ petition are that the respondent herein, who is a practicing lawyer on Income-tax side, filed a civil suit against the petitioner herein for recovery of Rs.11,83,200/-. In Paragraph 2 of the plaint it has been mentioned that from time to time since 1987-88 the respondent herein deposited the amount in the petitioner's firm against the interest @ 12% per annum and all that amount was deposited through cheques. It has been further mentioned that whatever amount was repaid by the present petitioner was also through cheques and ultimately it has been mentioned that Rs.8,87,000/- are due against the petitioner as principal amount and Rs.3,13,2000/- are due towards the interest.

Written statement on behalf of the petitioner herein has been filed. However, an application was filed by the petitioner herein before the trial Court seeking direction against the respondent herein to produce his income-tax return, account of interest received by him and the balance sheet for the period ranging between 01.04.1988 to 31.3.2001, but the same was rejected by the trial Court vide impugned order dated 05.12.2002 holding that these documents are

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ५००/०३ सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

not necessary for the disposal of the suit, therefore, the plaintiff cannot be directed to produce these documents.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the trial Court has decided the application without giving opportunity of hearing to the petitioner and moreover, documents filed in support of the plaint by the respondent are handwritten and they are not in proper form.

As far as the question of illegality in the impugned order is concerned; as mentioned above, the respondent herein filed a suit for recovery of the principal amount and interest thereon and it has been mentioned that all the amount was advanced by way of cheques, thus, the suit is based on the cheques given by the plaintiff to the present petitioner; therefore, I am of the opinion that the trial Court has not committed any illegality or irregularity while rejecting the application of the petitioner herein for producing the documents.

In view of the above, I do not find any substance in this writ petition, which is liable to be dismissed and is dismissed.

However, in view of the submission made by learned counsel for the petitioner that without giving any opportunity of hearing the trial Court has rejected the application filed for production of documents; it is expected that in future before passing any order the trial Court will give proper opportunity of hearing to the petitioner.

With the aforesaid direction, the petition stands disposed.

Certified copy as per Rules.

Sd/-
L.C. Bhadoo
Judge

[पीछे देखिये